

DETAILED ACTION-ALLOWANCE

Claim Status

Applicant's amendment and response filed January 2, 2008, to the non-final action dated October 1, 2007 has been entered. Claim 1 has been amended. No claims were cancelled or newly added. Claims 1-5, 7-12, 41-43 and 55 are pending in the application and currently under examination.

Claims 1-5, 7-12, 41-43 and 55 were previously rejected under §§ 35 U.S.C. 101 (lack of utility), and 112, first paragraph (lack of enablement). Pursuant to the interview dated November 16, 2007, Applicants have provided a Rule §1.132 Declaration by Dr. Veniant-Ellison, showing the effects of the instantly claimed FGF growth factor on metabolic activity in transgenic mice, especially with regards to diabetes, lipid metabolism and liver function; further supporting evidence provided in an earlier presented Rule §1.132 Declaration by Dr. Ornitz, and the disclosure in the instant specification. Therefore, in view of the evidence provided, and upon further consideration, it is clear that the claimed FGF has potential utility in the treatment of metabolic disorders. Accordingly, the rejections of the claims under §§ 35 U.S.C. 101, and 112, first paragraph, are hereby withdrawn.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Donald L. Zuhn on March 26, 2008.

The application has been amended as follows:

In the claims,

Claim 5 has been amended as follows:

In line 2, the word "Claims" has been replaced with "Claim".

Reasons for Allowance

The following is an examiner's statement of reasons for allowance:

The prior art of record does not teach or suggest the nucleic acids and polypeptides encoding the human and mouse FGF growth factors. The closest post-filing art, while disclosing the human FGF-21 protein, fails to share the sequence identity as required by the instant claims. Additionally, the Declarations by Drs. Ornitz and Veniant-Ellison under 37CFR §1.132, provided evidence for the potential use of the claimed molecules in the treatment of metabolic disorders..

Claims 1-5, 7-12, 41-43 and 55 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FEREDYDOUN G. SAJJADI whose telephone number is (571)272-3311. The examiner can normally be reached on 6:30 AM-3:30 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Woitach can be reached on (571) 272-0739. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Anne Marie S. Wehbe/

Primary Examiner, Art Unit 1633